

The Chair called the meeting to order at 7:05 pm.

I. Roll Call

Present: Ed Magill, Chair Joe Cardello, Bruce Santa Anna, Dr. Lucien Benoit, Steven Parent (arrived at 7:15 pm) Absent: John O' Donnell, Eugene Simone.

Also present were Town Planner Michael Phillips and Assistant Town Solicitor Bob Rossi.

II. Approval of Minutes - March 6 and 27, 2008

Dr. Benoit made a motion to approve the minutes of March 6, 2008 as corrected. Mr. Santa Anna seconded the motion, with all in favor.

Dr. Benoit made a motion to approve the minutes of March 27, 2008 as corrected. Mr. Santa Anna seconded the motion, with all in favor.

III. Sayles Hill Estates - Pre-Application Major Subdivision

Applicant: Andre B. Leblanc/Korel Realty, LLC

Location: Sayles Hill Road

Assessor's Plat 17 / Lot 163

Zoning: Suburban Residential (RS-40)

Anthony Winiarski, representing Korel Realty, addressed the Board. He gave an overview of the application, referring to previously submitted plans. He addressed the frontage of the property on both

Sayles Hill Road and Rue de St. Jude, described the dimensions of the parcel using map, and explained that wetlands have been flagged, but the application has not yet been submitted to DEM. There are approximately 14 acres available to develop, and the applicant is proposing to build 13 units. They will improve the unimproved portion of Rue de St. Jude. They will also pursue soil suitability tests to plan for OWTs. Dr. Benoit questioned whether it is realistic to get 12 lots, based on the results of the 7 test pits. Mr. Winiarski replied that much more extensive testing is needed, but based on working with this type of soil in the past, the applicant believes they can get 12 buildable lots in addition to the existing lot.

The Chair commented that he has similar concerns with the water table being very high in that area. Referring to the plans, the Chair pointed out an existing stone wall and asked that the applicant try to make it a property line. He also stated that they may need to extend roadway, which may require a variance. Dr. Benoit clarified that it may be possible for the Planning Board to grant a waiver rather than having to apply for a variance

Dr. Benoit stated that the Board will be looking for bottomless sand filters for the OWTs on the lots. The Chair stated that the applicant should consider fixing the existing road after construction of the buildings on the property, (while doing the work needed to improve the unimproved portion of Rue de St. Jude). Mr. Winiarski stated that the applicant will try to stay off the existing road during construction.

Mr. Phillips referred to a stone pile referenced in a memo sent to the Board. He will go out to the site with Mr. Gagnon to try to identify it. The Chair suggested that the Board do a site walk. Mr. Winiarski stated that he would be fine with having the Board conduct a site walk at 6:00 pm on May 8, 2008.

IV. Ocean State Development, LLC – FINAL

Owner/Applicant: Richard Desrosiers

Location: 594 Great Road

Assessor's Plat 5, Lots 61 & 297

Zoning: M & BN (Manufacturing District & Neighborhood Business)

Attorney Mark Krieger addressed the Board and started off by apologizing to the Board and Town for the continuing construction at the site. He stated that the applicant misunderstood what the Board had previously stated, and they will follow all regulations from this point forward. He distributed copies of an easement agreement for the Board to review. Mr. Krieger also addressed previous issues raised by Board, including fencing, landscape plan, the location of the vortech system, and the moving of the lot line as part of an administrative subdivision. All have been addressed on the latest submitted plan. Erin Gallogly addressed the Board, distributed

detailed pictures of the fence to be used, and described all proposed fencing. The Chair asked if the front lot will be paved completely. Mr. Krieger stated that as of right now there are no architectural plans for another building, but most likely another building will be added in the future.

Mr. Phillips stated that on the east side, outside of the applicant's property, the slope from the San Man property is very steep, and asked how it will be dealt with in order to prevent erosion. Mr. McCarthy said they will plant ground cover to prevent erosion, which will be to the benefit of both properties. Mr. Phillips also pointed out that landscape plan does not show the fence, but the site plan does. He told the applicant to make sure both final sets of plans match.

With regard to previously discussed drainage problems, Mr. Phillips stated that the DEM has visited Branch Ave., and are requiring that the owners of the property at the end of Branch Ave. to cap septic overflow. They are addressing problems on a long-term basis, and once capped, the drainage system as laid out should be acceptable. They have also discussed temporary short-term solutions in case of rain.

The Chair suggested that for the future building, try to front it on the street rather than along property line, with parking in rear. Mr. Phillips stated that final signed sewer easements and drainage easements are needed. Mr. Krieger stated that the easement

agreements are pending. They have been sent to San Man Realty, and the applicant should be able to get them executed and recorded by the beginning of next week.

Mr. Santa Anna made a motion that final approval be made administratively once the signed easements and corrected plans are submitted to the Town Planner. Mr. Magill seconded the motion, with all in favor. Planning Board vote was as follows: AYE: Mr. Magill, Mr. Cardello, Mr. Santa Anna, Mr. Parent, Dr. Benoit. Motion passed, with a vote of 5-0.

V. Ordinance Review

a. Noise Ordinance

Mr. Phillips started a discussion on the proposed noise ordinance. He addressed some of the requested changes brought up at the last review. He stated that the penalty for violation, first offense, will be a warning rather than a fine. He stated that the Ordinance Review Committee had also made suggestions. The police will enforce the ordinance, and the Town Council will hear appeals and grant exceptions or waivers. Don Gagnon addressed the Board to discuss other changes to the proposed ordinance. He stated that they have added in specific Sunday and holiday hours, rather than completely prohibit activities on these days. The Chair stated that he still has a problem with restricting activities to certain times. He also stated there will be problems with police training and obtaining and using

sound meters, especially with current funding problems in the town. He asked if the ordinance could be monitored by listening, rather than using sound meters. He suggested using Cranston's ordinance as a guide. Mr. Gagnon stated that doing so would be very subjective and asked what could be done if someone challenged a citation. The Chair stated that the ordinance should include a clear definition as to what is loud. Mr. Phillips believes the ordinance has to be objective.

Dr. Benoit asked what would be considered a non-communal homeowner's tool. After discussion, the Board and Mr. Gagnon decided that clarity in the ordinance can be obtained with the phrase "non-commercial use." Dr. Benoit is also concerned that the ordinance can be used as a vendetta, and stated that the 5-minute monitoring is troublesome too. He further stated that if the ordinance doesn't exempt existing commercial, he won't vote for it. The Chair agreed with this, and asked Mr. Rossi if it would be fair to these businesses in that it could affect whether or not they can earn a living. Mr. Rossi stated that since there is no existing ordinance, it can be challenged. No one can be grandfathered in, since there are no existing regulations. Existing businesses may have to try to see if there is any way they can muffle the existing sound levels. Mr. Phillips stated that he suspects the ordinance will be challenged right out of the gate. Regarding any kind of grandfathering of sound levels at existing businesses, Mr. Gagnon asked what would be done if existing business decided to increase their sound levels.

Mr. Gagnon suggested that a Planning Board member address the Town Council. The Chair expressed concern that the town is instituting too many ordinances. Dr. Benoit asked if there's any way to refine the document so it will not be challenged right away. Mr. Gagnon stated that Burrillville hasn't had a problem, and they have a very similar ordinance. Mr. Magill stated that the town should have a noise ordinance to prohibit things such as motorcross vehicles in residential areas. Mr. Phillips stated that situations such as those are more of a zoning issue than a noise ordinance issue.

Dr. Benoit suggested that the Board put all their concerns on paper and have the Chair present their concerns to Town Council, without giving a favorable or unfavorable recommendation. The Chair suggested that their concerns would get more attention if given as part of an unfavorable recommendation. The Board suggested that the Chair attend the Town Council meeting to discuss the Board's concerns.

Mr. Santa Anna made a motion to send an unfavorable recommendation to the Town Council

due to the following issues and concerns of the Board: 1.) the 5-minute monitoring; 2.) time constraints on homeowners' tool use (the Board suggests to make all non-commercial use exempt); 3.) exemption of existing businesses; 4.) enforcement of muffler

modification of some ATVs and dirt bikes; and 5.) the possibility of many unintended consequences of the ordinance.

The motion was seconded by Mr. Magill, with all in favor. Planning Board vote was as follows: AYE: Mr. Magill, Mr. Santa Anna, Mr. Cardello, Dr. Benoit, Mr. Parent. Motion passed, with a vote of 5-0.

VI. Elizabeth Avenue Update

Mr. Phillips stated that the Town Council has strongly suggested that the Planning Board go after the bond. Mr. Phillips has drafted a letter to the developer. He stated that there had been no deadline set, but it was understood that the road construction would be done by spring. There has been no action and it is now May. Mr. Santa Anna suggested that deadline be set as May 15, and then notify the bonding company. He added that it will be at least a year before the town is able to get any money from the bonding company. He suggested that when redoing subdivision regulations, a proportional system of cash bonding be set up, perhaps with a minimum of \$500,000. Mr. Rossi suggested considering each project on a case-by-case basis.

VII. Adjournment

Mr. Santa Anna made a motion to adjourn at 9:15 pm, seconded by Mr. Magill, with all in favor.

Respectfully submitted,

Angela Pugliese

Planning Board Recording Secretary